Applying Property Rights Theory to Africa: The consequences of formalizing informal land rights

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Prepared for the 2006 meeting of the International Society for New Institutional Economics in Boulder., Colorado. A longer version of the paper is available from the author on request.

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Literature in the field of economics reveals the accepted wisdom that clearly defined and enforced property rights contribute significantly to economic development (Acemoglu, Johnson, and Robinson 2004; De Soto 2000; Libecap 2003; Norton 2000). Anthropologists (Berry 1992; Chanock 1991; Platteau 1996) and political scientists (Fukuyama 2004; Weimer 1997) have also noted the importance of property rights in issues of economic and political development. Secure property rights encourage people to invest their resources and protect their investments against expropriation. Scholars have argued that economic efficiency requires a clear definition of the rights of ownership, contract and transfer (Johnson 1972). Ambiguity in the definition or enforcement of any of these rights leads to an increase in transaction costs in the exchange as well as residual uncertainty after any contract.

Economic arguments for stronger property rights correspond with a demand for clarity of property rights by people across the African continent. Evidence to this demand is present in the plethora of legal disputes started in national courts, addressed in alternative dispute resolution bodies and through local conflict resolution mechanisms (Deininger and Castagnini 2004; Fenrich and Higgens 2001; Human Rights Watch 2003; Joireman 1996; Toulmin, Lavigne Delville, and Traore 2002). Legal disputes heard in national courts represent a costly allocation of state resources to the adjudication and enforcement of ownership.

If policy-makers and people in both rural and urban communities across Sub-Saharan Africa believe that well-defined property rights are important then why have they been so difficult to implement? Is it simply a problem of governance, as I have argued elsewhere (Joireman 2000)? Governance may be one part of the problem, but governments that have in good faith tried to implement new property rights and faced limited success, such as those in Kenya and Uganda, suggest that we might look further for more complete answers.

In the following discussion I will address two major impediments to the implementation and enforcement of property rights on the African continent. My focus is on the enforcement of law because this is the area of greatest challenge for many states. Countries across the continent have exerted great effort and resources writing property and inheritance laws that are conducive to economic growth. This is a necessary but insufficient means of clarifying property rights. Effectively implementing laws that are passed and then utilizing state resources to ensure their enforcement, particularly in areas far from the center of power in a country is a pressing challenge to almost all African states.[1] This paper will seek to elucidate these issues by first giving some background regarding the issue of property rights in Sub-Saharan Africa and their interaction with customary law. A discussion of current realities in the allocation of property according to customary law will follow. This leads to the second issue, the particular position of women in African economies and culture, which is then linked to property rights in the subsequent section. The paper will conclude by addressing how theories of property rights depart from realties in Sub-Saharan Africa and what the potential effects of this

[1] Ideally, law relating to property rights develops organically from the bottom (practice) up to statutory law. There is ample evidence, some which will be discussed here, that the imposition of legal reforms from the top down will not achieve the desired outcomes.

disconnect might be.

Property Rights and Customary Law

Customary law is a body of rules governing personal status, communal resources and local organization in many parts of Africa. It has been defined by various ethnic groups for their internal organization and administration. Customary law exists as a second body of law (in addition to statutory law) governing citizens in countries of Sub-Saharan Africa. It has the greatest control over people in rural areas, but also affects urbanites as it regulates issues such as marriage and inheritance. In contemporary Sub-Saharan Africa it is estimated that 90% of the land is held under forms of customary tenure and 10% formalized title (Deininger 2003: 78).[2] Since colonial times customary law has existed as an alternative system of organization to national, statutory law, administration and inheritance. However, it is important that we understand that customary law is not a set of primordial principles or a body of unchallenged traditions that predate colonization.

Customary law regulated access to land for Africans during the colonial era. Virtually every colonized country had two systems of land holding, one which was regulated by the state and one by customary law and traditional leaders.[3] The land regulated by the state was privately held by citizens of the metropole, settlers and sometimes by Africans; but much of the land was governed by customary law since at

[2]Even if these percentages are exaggerated, they mark the fact that customary control over land as significant .

[3] The exception would be India where there was not such a pronounced dichotomy between the property rights of the colonizers and those of the colonized. That said, there was also not equality. For more information see Joireman, Sandra F. 2006. The Evolution of the Common Law: Legal Development in Kenya and India. *Commonwealth and Comparative Studies* 44 (2).

independence few countries had the capacity to embark on the Herculean effort of unifying the disparate land holding institutions, even if there was the desire to do so. Instead an institutional lock-in occurred and the existing, bifurcated, land holding system remained intact with all of the resulting problems of definition and control.

Divergent Property Rights

Privatized and customary land tenure institutions articulated two very different bundles of rights to land. In the colonial era this dual system followed racial lines; natives used land, white colonizers owned it. Since colonial governments did not find conceptions of land holding that were equivalent to that of fee simple or exclusive land ownership among colonized peoples, it was assumed that landholding must be vested in the community.[4] Africans maintained rights to land as groups and those groups were overseen by a chief who controlled land allocation. The belief in African communal land rights was supported by two linked administrative impulses of the colonial government 1) the colonial need to expropriate land and govern its occupation and exchange with some degree of legality (even if this was merely a creation of their own administrative fiat); and 2) the necessity of space for the indigenous population to live and to farm. Under the demands of indirect rule, the best type of arrangement to meet the second need required

[4] It would be more accurate to say that community rights and individual rights in pre-colonial Africa were not mutually exclusive. The conception that Africans held all land communally was incorrect in two ways 1) it minimized the individual rights to land which existed short of alienation and 2) it disregarded the multiple and overlapping forms of rights that might exist among separate individuals to the same plot of land. Take as an example a farmer cultivating a crop near the side of a stream. She has been given the right to use the field by the chief and to harvest the crop that she grows there. She anticipates maintaining the use rights to this field well into the future. However, there are several fruit trees on her farm land which belong to someone else. The owner of the fruit trees has the right to harvest his fruit and look after his tree. There may also be another person in the area who has the right to graze cattle or goats on the crop residues after the field is harvested. Here we have a complex array of long-term use rights (the farmer), ownership (the tree owner) and seasonal privileges. Not all of these rights are equally protected in a system that assumes group rights to resources; the rights of the individuals tend to be minimized or overlooked.

no administrative oversight by colonial officials, hence the creation of native reserves or customary tenure areas. These areas could be administered by "traditional" leaders without requiring expatriate civil servants working in the adjudicative and administrative institutions of the colonial state. Where traditional rulers could not be found, they were created. Where their previous powers did not relate to the administration of land, they were given new powers. Firmin-Sellars notes the complicity of the colonial state in supporting property rights claims proffered by traditional leaders when they served the goals of administration and control. Her interesting study of Ghana also illustrates that different versions 'customary law' were presented to colonial officials for their support (Firmin-Sellers 1996).

In recognizing communal rights to land the colonial governments established an institutional system that either governs directly or significantly influences the allocation of land in many African countries to the present day. There are three effects of customary law as it pertains to property rights that are worth noting; 1) the creation of an understanding of land ownership as communal; 2) the creation of path dependent institutions that are resistant to change; and 3) the enrichment and empowerment of those individuals controlling the customary tenure systems.

Land Titling: Nettlesome and Unnecessary?

In areas where land is relatively plentiful, customary law effectively regulates the distribution of land in a way that has fewer transaction costs than going a more bureaucratized registration system, if such a separate system exists. Where land is plentiful, privatized, national systems of property rights show few benefits over

customary systems of land rights, so even when new systems of property rights are adopted from the top down they are unlikely to be fully implemented. Jean Ensminger has observed that

> "Increasing evidence from Africa is calling into question …: (1) whether the gains of new property rights justify the transaction costs and (2) whether the fit between customary tenure, social norms and the new property rights is sufficient to lend legitimacy to their enforcement" (Ensminger 1997: 168).

Perhaps even more unsettling are assertions that rather than promoting security of tenure titling efforts can lead to higher levels of conflict over land and thereby reduce productivity (Deininger and Castagnini 2004). In areas where the value of land is relatively low, the transaction costs of land registration appear to be too high to make it worthwhile for people to register their land through formal channels. After the Ugandan Land Act of 1998 made it possible for people on customary land to title their land and exchange it through governmentally recognized methods, individuals in land abundant areas still chose to go through locally recognized institutions of exchange rather than the legal system to document land transfers. Their land was sufficiently secure to preclude any need to go beyond the recognition of members of their local government in a land exchange. Until the value of land or its attributes increases sufficiently to offset the transaction costs, titling and more formalized land transfers will not be embraced (Anderson and Hill 2004; Barzel 2002).

But not everywhere is land abundant. In areas of Africa where land is scarce and population densities are higher, land allocation is more contested, conflict over land is

frequent and resort to government bureaucracies for dispute settlement and recognition of land transfer is more likely. Consistent with the economic literature on institutional change, ample evidence exists demonstrating the breakdown of institutions and the innovation of new ones when land values increase in Africa (Bruce 1976; Joireman 1996; Joireman 2000). In areas where land has a higher value, customary land ownership patterns can empower and enrich those who make decisions regarding its allocation. "Authority in land whether vested in the chiefs, or in the government officials and political leaders, can in turn, lead directly to private economic benefits for these actors, derived from land accumulation, patronage and land transactions" (Toulmin and Quan 2000). Traditional leaders can practice the politics of exclusion, denying resources to groups with less political power, such as divorced women and migrants, who are easily labeled and denied access to land communally held.[5]

There is a tremendous difference in the treatment of land in urban and rural areas in Africa. In rural areas control over land is a means of gaining food. In urban areas control over land is control over wealth. In Uganda conflict over land and corruption with regard to the administration of land in the capital city is a matter of daily news. In one high profile case, the Kampala City Council was accused of obtaining title to land on which public schools were present, then selling the titled land. This particular case led to a public statement by the Minister of Local Government, that anyone dealing with the

[5] For a recent example of precisely this problem see the work of Marja Spierenburg on the Mid-Zambezi Rural Development Project in Zimbabwe. In this case it was the government of Zimbabwe that in the 1990s recognized an area of communally held land in Dande. They sought to reallocate the land in a more ecologically sustainable way that would be conducive to agricultural development and the resettlement of families living on former European-owned land. In the process of doing so they effectively stripped land rights from migrants who had been living in the area peacefully and cooperatively for years Spierenburg, Marja J. 2004. *Strangers, Spirits, and Land Reforms: Conflicts about Land in Dande, Northern Zimbabwe*. Boston: Brill.. By not recognizing that migrants were part of this community, and instead adhering to the old idea of communally held lands belonging collectively to one people group, the government repeated the error of colonization.

Kampala City Council does so "at his or her own risk" (2005)! In the case of urban lands in Uganda, there is no doubt that the value of formal titling offsets the costs incurred.

Current economic theories such as that of Hernando De Soto (2000), would posit that customary land holding systems are less conducive to economic development because they do not give those who are present on the land the power to acquire title and mortgage their possessions. While this idea is true for areas in which land is in high demand, in land abundant areas, any effort to formalize title may be undesirable because of increased transaction costs and difficulties in enforcement therefore title would only bring a limited benefit that would not outweigh its costs.

Women and Property Rights

Women in Sub-Saharan Africa face a distinctive social dilemma. Because of their labor, they are the mainstay of the agricultural economies, yet legally, their position is equivalent to those of women in Europe during the Victorian era.[6] Women in Sub-Saharan Africa do not share the same legal protections of their property and inheritance rights as men, or women in other parts of the world such as the Global North or Latin America.[7] They face difficulty in representing themselves economically and legally, for example in selling their own produce or in buying new fields on which to grow crops.[8] In

[6] In England women were not given co-ownership right to the homes in which they lived until The Matrimonial Homes Act of 1967 which required that a wife protect her right to reside in her home through registration. ***Double check this and expand if necessary***

[7] In Latin America women have more legal protections. This, combined with the absence of a competing system of customary law had made their situation with regard to property ownership better than that of women in Sub-Saharan Africa. See Deere, Carmen Diana, and Magdalena Leon. 2001. *Empowering Women: Land and Property Rights in Latin America*. Pittsburgh: University of Pittsburgh Press.

[8] In Uganda, while women grow food crops, many ethnic groups view it as the job of the husband to sell the agricultural produce at the market.

Rwanda, women were not recognized as full citizens until the 1998 constitution. Previous to that point they were legal minors. If a Rwandan woman wanted to buy a plot of land, a building or even a home she had to either do so in the name of a male relative or establish a corporation which could act as a legal person for her.

Even when law enables women to operate as legally recognized economic actors, social impediments to their doing so are abundant. In Western cultures most married women would not own property individually, but jointly with their husbands. In Africa, the idea of co-ownership is an alien one. The idea of a woman acquiring property in her own name during marriage is incendiary as it implies that she is not committed to the husband or his family.[9] In the few African countries where there are laws providing for the co-ownership of marital property such as the family home or other assets; these laws have proven very difficult to enforce because they go against the grain of cultural practices (Fenrich and Higgens 2001; PlusNews 2006).

The position of women in Africa is so unusual as to merit special consideration. Because of the women are supposed to provide food for their families either through their farming or waged employment, they are involved in the market and have obligations in the realm of production as well as reproduction.

> "A distinguishing characteristic of SSA economies is that both men and women play substantial economic roles. Data compiled by the International Food Policy Research Institute (IFPRI) indicate that African

[9] This point was driven home to me in conducting interviews on the new land law in Uganda in 2006. I had an interview with a woman who was the regional gender officer for her part of the country, a fairly elevated position and one in which she was required to assist women in defending their property rights. She told me that "Women can't own land and have stable marriages." This is a sentiment that I had heard before in many different contexts. See also Human Rights Watch. 2003. Double Standards: Women's Property Rights Violations in Kenya. In *Kenya*. New York: Human Rights Watch.

> women perform about 90 percent of the work of processing food crops and providing household water and fuelwood, 80 percent of the work of food storage and transport from farm to village, 90 percent of the work of hoeing and weeding, and 60 percent of the work of harvesting and marketing" (The World Bank Group 1999).

In terms of property rights to land, women typically have secondary rights to land access, meaning they can farm land because they have married a man who is of a particular kinship group or they have children who are seen as belonging to a particular kinship group (Bikaako and Ssenkumba 2003; Wanyeki 2003; Whitehead and Tsikata 2003; Yngstrom 2002). Women do not receive land access because they are not recognized as having autonomous membership in a particular group and therefore have only the right to till land owned by the group.[10] Because they marry and go to live with their husband's family, women in most parts of East Africa are not viewed as having membership in their lineage, but are seen, at best, as a member of their husband's lineage and at worst only as a means of perpetuating the kinship group.[11] In West Africa and among some ethnic groups in other parts of the continent, women are never considered to have left their natal families and they have no share in his property even after marriage.

[10] Yngstrom argues that in Tanzania this was not always the case, that women used to be able to claim land from their families, but secondary rights became standard practice by the late 1950s when men began to 'assert greater control over land, by limiting land transfers made by lineage members to female family members" Yngstrom, Ingrid. 2002. Women, Wives and Land Rights in Africa: Situating Gender Beyond the Household in the Debate over Land Policy and Changing Tenure Systems. *Oxford Development Studies* 30 (1):21-39.

[11] That said, it would be wrong to suggest that in all circumstances under customary tenure women have no access to land through their own kin group. Often they will have some residual claim to land in their natal kinship group or through wider social ties Whitehead, Ann, and Dzodzi Tsikata. 2003. Policy Discourses on Women's Land Rights in Sub-Saharan Africa: The Implications of the Re-turn to the Customary. *Journal of Agrarian Change* 3 (1 and 2):67-112.. However, this is more the exception than the rule.

There is a fundamental conflict between gender equality and the upholding of traditional customary law regimes – nowhere is this more apparent than South Africa where there has been overt contestation over social rights as a result of constitutional guarantees of gender equality. In South Africa women are guaranteed equal rights under the law by a constitution which also recognizes the rights of traditional leaders to allocate land. Given that in customary tenure systems women have no access to land in their own right, it was inevitable that a case would be brought on behalf of a woman denied access to land. In South Africa the decision of the constitutional court in the Bhe case argued that a woman must be allocated land by a traditional leader.[12] However, the reason given in the ruling was not that she had equal standing as a citizen of South Africa and a member of that kin group, but rather that she had children that were members of that kin group and their rights could not be denied. What was important in the Bhe case was that the children happened to be girls. A decision that these girls deserve access to land because they are members of the kin group, was an affirmation of their membership in the lineage – a membership which was not previously explicit in the case of girls or women. While case law is being developed in South Africa that moderates the differences between constitutional and customary law, evidence suggests that widowed and divorced women with children obtain land under customary land tenure systems while women without children do not (Terrell 2005).

Inheritance

[12] Bhe and Others v. The Magistrate, Khayelitsha and Others

Women's property rights and access to land are linked to inheritance patterns. Under customary law girls tend to inherit less than boys, and often nothing at all.[13] In a polygamous household, if the husband, or head of household dies, any childless wives will receive nothing and will have to return to their natal family. Because these women have not provided the lineage with heirs they have no status and no further link to any member of the lineage. Women with children are in a slightly less precarious position. They are still not regarded as members of the lineage, however, if they are taking care of minors who are, their use rights to their husband's land and house will often be respected.

The evidence regarding women's inheritance rights after the death of a spouse in Africa is mixed. Examining the Kenyan case Aliber et al. note that most women are able to hold onto their land after the death of a husband by turning to the community as a whole to gain support in legitimizing the wife's claim to the land. In their study, a woman losing home and land after a husband has died is the exception rather than the rule (Aliber et al. 2004). This would be consistent with the findings of Rose and Khadiagala that women are able to negotiate customary law and maintain usufruct rights to land through social networking (Khadiagala 2002; Rose 2002). However, the weight of evidence seems to emphasize the vulnerability of women's property rights after the death of a spouse. Human Rights Watch has documented findings in Kenya that argue that spousal loss of property is a frequent occurrence (Human Rights Watch 2003). This is further supported by anthropological studies such as that of Verma among the Maragoli

[13] This is true even in Islamic areas where sharia law controls inheritance for women. In Nigeria in the northern states where sharia law is recognized, women still do not inherit as dictated by sharia law. The reason given is that according to the Maliki school of sharia law Nigeria is an area in which Islam was imposed by conquest and therefore some allowance for pre-existing customs, *urf,* must be allowed. Abdullah, Hussaina J., and Ibrahim Hamza. 2003. Women and Land in Northern Nigeria: The Need for Independent Ownership Rights. In *Women and Land in Africa*, edited by L. M. Wanyeki. New York: Zed Books, Ltd.

(Verma 2001). In Uganda in 1995, FIDA reported that 40% of the cases they handled were related to the harassment of widows and property grabbing by their husbands relatives (Bikaako and Ssenkumba 2003: 250). Evidence from other parts of Africa supports the finding that women's property rights and use rights to land are insecure after the death of a husband. This evidence is further detailed in the longer version of this paper.

The theoretical and practical disconnect

De Soto has argued that "The only way to touch capital is if the property system can record its own economic aspects on paper and anchor them to a specific location and owner" (De Soto 2000: 63). His idea is that formalizing the informal property rights that already exist will empower people with access to capital provided by way of mortgage and sale. Yet, 'formalizing the informal' could have potentially disastrous consequences where customary law regulates access to land and where the co-ownership of women is not legally recognized or enforced.

In many African contexts where customary law is regulating the access to land, formalizing existing property rights will effectively alienate women from access to capital. This was precisely what occurred in the titling of land in Kenya. Under customary tenure Kenyan women had use rights and 'considerable management control over plots allocated to them by household heads'. When land was registered in the name of the male household head they lost that control (Ensminger 1997). As long as land is untitled women have usufruct rights. They may not be able to control all aspects of the land use, but they also may have relative security of occupation as long as land values

remain relatively low. If there is an effort to formalize the informal customary law that exists in Africa, the land becomes titled but not in the names of women.[14] This makes them vulnerable to loss of their use rights if those in whose name the land is titled seek to sell or mortgage it without their consent.[15] This dilemma would be surmounted by national laws ensuring joint ownership of land.

The dual systems of law in Africa may have a positive benefit in allowing flexible responses to regional and ethnic differences in custom. However, customary law throughout Sub-Saharan Africa is inadequate for the protection of women's property rights in areas where there is a high demand for land. Formalizing customary law without providing for joint ownership will undermine both the ownership and use rights of those most involved in the production of food crops and other agricultural products.[16]

In summary there are two fundamental problems regarding women's land rights in many parts of Africa. The first is the absence of autonomous property rights to either customary or privately held land and the second is the lack of enforcement of women's inheritance rights. In the first case the absence of law guaranteeing co-ownership is the problem, in the second case the law exists in many places and is sufficient for the protection of women and children, but it is sporadically enforced. Creating law regarding co-ownership without effective enforcement of that law will not better the current situation.

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[14] Either in their own name or jointly with spouses.

[15] The Ugandan Land Act of 1998 has attempted to surmount this problem by requiring the consent of the spouse on land sales. However, in a polygynous society it is relatively easy to get around this problem by having another spouse sign the consent form, or even marrying another woman in order to ensure a spousal consent.

[16] John Locke in his Second Treatise on Government argued that property rights naturally accrue to an individual as a result of the contribution of his or her labor Locke, John. 1764. *Two Treatises of Government*. London: A. Millar et al. This idea is alien to the kinship based customary land institutions in Sub-Saharan Africa in which a man may possess land but his children and wives are supposed to provide the labor for the production of crops without gaining any interest in the land for themselves.

Enforcing Property Rights

Many scholars approach the issue of property rights assuming that legislative decisions will be enforced throughout a country by states that have effective control over the entirety of their territory. The belief that states automatically enforce decisions regarding property rights leads to seriously misplaced policy initiatives that focus more on the issue of law-making than on law enforcement or implementation.[17] Absent a strong local administrative structure, enforcement of laws regarding property is far less certain and the transaction costs are much higher.

Enforcement of existing laws is a general problem in under resourced areas (Boone 2003). Enforcement is a particularly salient issue with regard to the property rights of women and migrants who are less powerful and more vulnerable to the expropriation of their property should they face a major life change. In Namibia, the Married Persons Equality Act of 1996 and the Communal Land Reform Act of 2002 protected women by allowing them to remain in their houses and on their land after the death of a spouse. However, this legislation has had little impact as women do not know their rights under statutory law and customary law continues to control the dispossession of property (PlusNews 2006). The Namibian government has not made the necessary investment in civic education to promote the enforcement of these laws. Without both the laws in place and the education of legal and traditional authorities, women will continue to face insecurity in their control over property.

[17] Enforcement is dependent on a local administration that has the capacity to police and administer its areas and a judiciary that is free to make decisions in accordance with the law.

Conclusion

Well defined and protected property rights are critical to achieving the best use of resources and promoting the economic development of a country, though no one form of property rights is best suited to all countries and contexts.[18] In developing countries the property rights of the poor must be adequately defined and protected so that they are able to leverage the capital they have to take advantage of economic opportunities outside the locus of family and community.

Where women are active participants in the rural economy it is important to define and protect their property rights specifically and not to simply view them as members of a household. Co-ownership of marital property is a place to begin in the creation of new law, or the enforcement of co-ownership where laws protecting it already exist. Where customary law governs land allocation, efforts must be made to ensure in the process of codifying those rights, women are not completely without access to capital in land. If customary law has been defined in such a way as to prohibit women's access to land or eliminate women's ability to pursue title, then customary law must be changed to bring it in line with constitutional provisions of equality. Since customary law is typically uncodified it may be changed through the education and enlightenment of the leaders who control land allocation and set the rules governing communal land holdings.

New laws designed to formalize informal property rights and free up capital for the poor in Africa must give attention to both customary law and women's property rights. But law alone is not the solution unless it is combined with enforcement. Effective law enforcement assumes that state strength is sufficiently capable of

[18] Terry Anderson and Fred McChesney provide a comprehensive introduction to property rights and law in a variety of settings. Anderson, Terry, and Fred McChesney. 2003. *Property Rights: Cooperation, Conflict and Law*. Princeton, NJ: Princeton University Press.

penetrating into rural areas where conflict between statutory and customary law will be most pronounced. It also assumes that there is an effective and independent judiciary. With a few exceptions, state capacities in Sub-Saharan Africa do not meet this threshold.[19] Moreover, the property law that is most conducive to economic growth is that which develops organically (Anderson and Hill 2004; De Soto 2000). Custom and history in Sub-Saharan Africa have created a set of circumstances in which the most beneficial types of property rights are unlikely to develop on their own due to preexisting institutions of customary law. Under certain circumstances it may be necessary to undermine customary law to promote an alternative understanding of customary land ownership that protects women's property rights. However, civic education campaigns that emphasize the importance of women's statutory rights to property may help as may concerted efforts to educate traditional leaders (Strickland 2004) or other efforts that could be made to strengthen the negotiating abilities of women so that they might make the case for the particular set of property rights that would be most helpful.

[19] For example, in East Africa Uganda and Kenya are adjacent to one another and have radically different judicial capabilities. Judicial independence in Uganda is one of the most positive results of the democratization process there, while in Kenya the judiciary has been notoriously corrupt and under the control of the government. In both countries, however, state strength in the countryside is limited. In Uganda the government barely functions in the northern parts of the country where a civil conflict has been raging and in Kenya, the strength of the state in the West is certainly not what it is in the capital. Catherine Boone and Jeffrey Herbst have both written about the challenges of local administration in African states from very different perspectives. Boone, Catherine. 2003. *Political Topographies of the African State: territorial authority and institutional choice*. New York: Cambridge University Press, Herbst, Jeffrey. 2000. *States and Power in Africa: Comparative Lessons in Authority and Control*. Princeton,, NJ: Princeton University Press.

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